

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ROBIN ANN ANDERSON

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:21-cv-147-TBM-RPM

U.S. XPRESS, INC.
AND JEAN N. NELSON

DEFENDANTS

NOTICE OF REMOVAL

TO: Connie Ladner, Clerk
Harrison County Circuit Court
P. O. Box 998
Gulfport, MS 39502

Jason Ruiz, Esq.
1712 – 15th Street, Suite 300
Gulfport, MS 39501
jruiz@morrisbart.com

PLEASE TAKE NOTICE that the Defendant, U.S. Xpress, Inc., hereby removes the action entitled “*Robin Anderson v. U.S. Xpress, Inc. and Jean N. Nelson*”, Cause No. 24CI1:21-cv-00077 filed in the Circuit Court of the First Judicial District of Harrison County, Mississippi (“State Court Action”) to the United States District Court for the Southern District of Mississippi, Southern Division, pursuant to 28 U.S.C. Sections 1332, 1441, and 1446, and respectfully states to this Court as follows:

1. Plaintiff filed this cause of action in the Circuit Court of the First Judicial District of Harrison County, Mississippi, on or about March 25, 2021. See Plaintiff’s Complaint, attached as Exhibit “A”.

2. There is complete diversity of citizenship between all parties. According to the Complaint, the Plaintiff is an adult resident citizen of Pearl River County, Mississippi, and thus a

citizen of and domiciled in Mississippi. Defendant, U.S. Xpress, Inc. is a Nevada corporation with its principal place of business at 4080 Jenkins Road, Chattanooga, TN, 37421. See Secretary of State Name History, attached as Exhibit “B”.

3. The United States District Court for the Southern District of Mississippi, Southern Division, has original subject matter jurisdiction over this civil action because there is complete diversity among the parties and the amount in controversy, exclusive of interest and cost, is in excess of the minimum jurisdictional amount of this Court. Plaintiff seeks damages for permanent injuries, including lost income, physical and mental pain and suffering, mental and emotional anguish and distress, and counsel for Plaintiff has presented to Defendant medical expenses for treatment, including surgery, totaling to approximately \$187,600.00. In addition, counsel for Plaintiff made a presuit settlement demand of \$750,000.00 (see Exhibit “C”). Therefore, Plaintiff seeks compensatory damages in excess of \$75,000 and the minimal jurisdictional threshold is satisfied.

4. This Notice of Removal is timely filed because it has been filed within thirty (30) days of the service of the Complaint on Defendant. The Defendant was served on April 26, 2021. 28 U.S.C. § 1446(b).

5. This action is not one rendered non-removable by 28 U.S.C. § 1445.

6. Copies of all process, pleadings, and orders served on the Defendant in the state court action will be filed electronically upon receipt of a federal cause number and upon receipt of the state court file within fourteen (14) days.

7. A copy of the Notice of Removal is being served on the Plaintiff, by and through her attorneys of record, and the Clerk of the Circuit Court of the First Judicial District of Harrison County, Mississippi.

8. The consent of the non-removing defendant, Jean N. Nelson, is not necessary, as Nelson has not been served with the state court summons and complaint. 28 U.S.C.

§1446(b)(2)(A) ("[A]ll defendants who have been properly joined and served must join in or consent to the removal of the action."); *Lewis v. Rego Co.*, 757 F.2d 66, 68 (3rd Cir. 1985); *Smith v. Gholia Bros Trucking, LLC*, No. 19-cv-0204, 2019 U.S. Dist. LEXIS 195256 (W.D. La. May 1, 2019) ("Mr. Parker was not served at the time of removal, so he was not required to join the notice of removal when it was filed.").

WHEREFORE, Defendant, U.S. Xpress, Inc., serves this Notice and hereby removes this case pursuant to 28 U.S.C. Sections 1332, 1441, and 1446, and Plaintiff herein is notified to proceed no further in this case in the Circuit Court of the First Judicial District of Harrison County, Mississippi, unless by Order of the United States District Court for the Southern District of Mississippi, Southern Division.

Respectfully submitted this, the 30th day of April, 2021.

U.S. XPRESS, INC., Defendant

BY: CARR ALLISON, Its Attorneys

BY: s/Douglas Bagwell, MB #1682
DOUGLAS BAGWELL, MB #1682

Douglas Bagwell, MB#1682
CARR ALLISON
1819 26th Street
Gulfport, MS 39501
PH: 228-864-1060
Fax: 228-864-9160
dbagwell@carrallison.com

CERTIFICATE OF SERVICE

I hereby certify that on *April 30, 2021*, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Connie Ladner, Clerk
Harrison County Circuit Court
P. O. Box 998
Gulfport, MS 39502
cladner@co.harrison.ms.us

Jason Ruiz, Esq.
1712 – 15th Street, Suite 300
Gulfport, MS 39501
jruiz@morrisbart.com

s/Douglas Bagwell, MB #1682
DOUGLAS BAGWELL, MB #1682

Douglas Bagwell, MB#1682
CARR ALLISON
1819 26th Street
Gulfport, MS 39501
PH: 228-864-1060
Fax: 228-864-9160
dbagwell@carrallison.com